

July 26, 2002

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

STATE LEGISLATIVE UPDATE

State Budget

The Assembly met on Monday afternoon but did not take up the budget. Private discussions between representatives of both party caucuses are continuing but without apparent progress. Another floor session is scheduled for July 25, 2002. The Speaker has indicated that he intends to keep the Assembly meeting through the summer recess until a budget is passed. The Senate is due to return from its recess on August 5, 2002.

Meanwhile, the absence of an approved budget is causing problems for some people who depend upon it. Legislative employees were not paid on July 15. Today, the State Controller announced that she would withhold the salaries (and per diem) of legislators and constitutional officers, including the Governor. Vendors who provide goods and services, including MediCal providers, have not been paid since July 1; and starting August 1, State employees will only be paid the minimum wage. Most payments to local governments and schools continue to be made at this point in time. However, the Controller indicated that she cannot make payments for programs that are not continuously appropriated, including proceeds of the Highway User Tax.

Finally, the July Bulletin of the Department of Finance indicates that State revenue collection in June were 5.7 percent below the barely one-month old revenue forecast from the May Revision, with personal income tax withholding 6.5 percent below the forecast and sales tax revenues 5.4 percent below.

Status of County-Interest Legislation

County-supported AB 1058 (Pavley) has been held in the Assembly since May 2, 2002; however, as reported on July 3, 2002, the provisions of AB 1493, which was originally introduced by Assemblyman Fred Keeley, were deleted and replaced with the provisions of AB 1058. The amended AB 1493, which is authored by Assemblywoman Fran Pavley, would require the State Air Resources Board (ARB) to develop and adopt regulations to achieve the maximum feasible reduction in greenhouse gases from automobiles and light trucks whose primary use is for noncommercial, personal transportation. AB 1493 passed the Senate on June 29, 2002, and received Assembly concurrence on July 1, 2002. It was signed by the Governor July 23, 2002 .

Pursuit of County Position on Legislation

AB 2534 (Pavley), as amended on June 18, 2002, would enact the Watershed, Clean Beaches, and Water Quality Act to implement the "Clean Beaches, Watershed Protection and Water Quality" section of Proposition 40, and to appropriate approximately two-thirds of the bond funding provided by that section of the Proposition. The bill provides for a program of grants and loans to public agencies and nonprofit organizations for projects designed to improve water quality at public beaches, improve water quality monitoring and sewer capability, protect water quality by reducing runoff pollution, and control nonpoint source water pollution. The bill prescribes project selection criteria and procedures, including such things as the need for projects to demonstrate an ability to contribute to sustained, long-term water quality improvements, to treat causes rather than symptoms, and to include monitoring programs that define the methodology, frequency and duration of monitoring. In addition, the bill requires that the State Water Resources Control Board appoint a Clean Beaches Task Force, comprised of people representing the diversity of the coastal communities, to review and make recommendations on all project proposals to be funded from the Clean Beaches Account.

For FY 2002-03, AB 2534 would appropriate \$45 million in the Clean Beaches Account, \$69 million in the Clean Water Account, and \$35 million in the Integrated Watershed Protection Account, all of which the bill establishes as new accounts in the General Fund. It also appropriates \$46.4 million to the Coastal Conservancy to fund coastal watershed protection projects for FY 2002-03. This represents \$195.4 million, of the \$300 million in bond proceeds to be provided under the "Clean Beaches, Watershed Protection and Water Quality" section of Proposition 40, leaving \$104.6 million for appropriation in future years.

The Department of Public Works (DPW) reports that its Watershed Management Division has projects that should qualify for grants from several of the programs funded by AB 2534, and that the bill requires conformity with watershed management principles and practices that are already in place in Los Angeles County. DPW notes that, by its definition of “public agency”, the bill will allow State agencies, including the State’s conservancies which have already been provided with significant funding from Proposition 40, to compete for funding that should be reserved for local governments. DPW also points out that the bill could further restrict the funding available by offering loans, which are not attractive to local governments which have limited ability to repay them.

DPW recommends that the County support AB 2534, if it is amended to add the word “local” before “public agencies”, and to delete the word “loan”. DPW indicates that the bill establishes a framework that will allow the County to compete for State funding for County watershed protection and water quality improvement projects. The Department of Parks and Recreation (DPR) agrees with DPW’s recommendation to support AB 2534, if amended.

The Department of Beaches and Harbors (DBH) is concerned that AB 2534 has interpreted the “Clean Beaches, Watershed Protection, and Water Quality” section of Proposition 40 too narrowly. Article 5, paragraph (c), subparagraph (2) of the Proposition makes \$300 million available for “projects to protect beaches, coastal waters, rivers, lakes, and streams from contaminants, pollution, and other environmental threats.” Chapter 3 of AB 2534 establishes the “Clean Beaches Program”, appropriating \$45 million for “projects that restore and protect the water quality and environment of coastal waters, estuaries, bays, and near shore waters and groundwater.” It goes on to define five categories of projects that would qualify for funding, with all five focused exclusively on water quality issues.

While not disregarding the importance of water quality, it is the opinion of DBH that Proposition 40 had a broader intent and that “clean beaches” involves more than improving water quality. In fact, DBH performs a number of maintenance functions that remove “contaminants, pollution, and other environmental threats” that are critical to the cleanliness of the County’s beaches. As AB 2534 would otherwise appropriate \$150.4 million for clean water and watershed protection, DBH believes the bill should make the \$45 million allocated to clean beaches available for projects that would improve public facilities and other features of beaches that are necessary to “protect beaches”, as well as promote cleanliness and public safety.

DBH recommends that the County support AB 2534 if it is amended as DPW suggests, as well as to add a category of projects to the “Clean Beaches Program”,

as it is defined in Chapter 3 of the bill, to make funds available for projects that improve public facilities and other features of beaches that contribute to beach cleanliness and public safety, and we concur.

Therefore, based on the recommendations of DPW, DPR, and DBH, we will pursue support of AB 2534 with the amendments indicated above. Support for AB 2534 is consistent with existing Board policy to support measures which increase funding for environmental protection programs and capital projects, including resource, open space, and shoreline protection, Santa Monica Bay restoration, and beach restoration.

According to the Senate Agriculture and Water Resources Committee's staff analysis, the Sierra Club and East Bay Municipal Utility District have registered support for the bill and there is no opposition. AB 2534 is currently awaiting a hearing before the Senate Agriculture and Water Resources Committee.

AB 2770 (Matthews and Bogh), as amended on June 13, 2002, would modify certain definitions relating to solid waste; require the State Integrated Waste Management Board (IWMB) to establish programs for research, demonstration, evaluation, and promotion of new and emerging technologies that can convert residual solid waste into new sources of energy, alternative fuels, and other useful products; require the IWMB to convene an Interagency Conversion Technologies and Biomass Task Force to coordinate related State agency activities; authorize the diversion of up to 10 percent of solid waste to a permitted conversion facility; and, establish a number of reporting requirements.

The Department of Public Works (DPW) reports that this bill is a positive step toward enabling the County to meet the 50 percent diversion requirement established by the California Integrated Waste Management Act of 1989 (AB 939). While the bill does not lower standards or reduce safeguards, it recognizes progress being made in conversion technologies, which have not been given diversion credit in the past. According to DPW, attempts to obtain diversion credit for 100 percent of the residual solid waste sent to conversion facilities have been defeated, and that a 10 percent credit is a good starting point for further efforts to secure additional conversion credits.

DPW recommends that the County support AB 2770 because it grants a 10 percent diversion credit for solid waste sent to a conversion facility, encourages the development and use of conversion technologies to divert residual solid waste from landfills, and produces the added benefits of reducing greenhouse gas emissions and dependence on fossil fuels, by creating new sources of energy, alternative fuels, and other products, and we concur. Support for AB 2770 is consistent with Board policy to support increased flexibility for local agencies to meet waste reduction goals established

in the State Integrated Waste Management Act. The action is also consistent with the Board's adoption of the County's Integrated Waste Management Task Force's recommendations on July 27, 1999.

The bill is sponsored by the IWMB and supported by the Los Angeles County Integrated Waste Management Task Force, the California State Association of Counties, the League of California Cities, and the Solid Waste Association of North America. There is no reported opposition to the bill. AB 2770 is currently scheduled for hearing before the Senate Environmental Quality Committee on August 5, 2002.

SB 1916 (Figueroa), as amended on July 2, 2002, would require local governments to include a nonpoint source pollution prevention element in any Local Coastal Program (LCP), or amendment to an LCP, which requires Coastal Commission certification. A "nonpoint source" is a source that is not at a fixed location, such as streets and highways, as opposed to a factory or a construction site. This new element would have to be consistent with existing State law and the "Plan for California's Nonpoint Source Pollution Control Program", which was prepared by the State Water Resources Control Board and the Coastal Commission, and approved by the U. S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration. Prior to preparing the new element, the bill would require local governments to consult with the Regional Water Quality Control Board (RWQCB). The bill would also require the Coastal Commission to assist local governments in obtaining grants to offset the added costs associated with the preparation of this element, but it does not provide for any State reimbursement of this new mandate.

SB 1916 would allow a local government that is subject to a National Pollutant Discharge Elimination System (NPDES) permit, to satisfy the requirement of the new element for those land uses and project development categories covered by the permit. The bill would not restrict the Coastal Commission, the State Water Resources Board, Regional Water Quality Control Boards, or local governments from adopting stricter requirements than those contained in the "Plan for California's Nonpoint Source Pollution Control Program", for those land uses and project development categories not covered by an NPDES permit.

The Regional Planning Department (RPD) indicates that this bill will require the County to duplicate work, at considerable expense, that has already been done for the RWQCB, which is the State agency responsible for regulating nonpoint source pollution. Even though the County has successfully worked out an NPDES permit with the RWQCB, which is specifically designed to protect coastal waters, fully meeting the intent of the Coastal Act, the Coastal Commission could choose other, more restrictive criteria to evaluate the LCP. It should also be noted that this bill will enable the Coastal Commission to regulate land use

beyond the established coastal zone, as the watersheds affecting coastal waters extend as far as the crest of the San Gabriel Mountains.

RPD recommends that the County oppose SB 1916, unless it is amended to exempt local governments that are already subject to NPDES permits from the requirement to add a nonpoint source pollution prevention element to its LCP. Otherwise, the bill will lead to unnecessary effort and expense, and allow the Coastal Commission to intrude into an existing regulatory process, conceivably involving the County in disputes between two State agencies. Opposition to this bill is consistent with Board policy to oppose legislation that infringes upon county board of supervisors' local land use decision-making authority.

SB 1916 is supported by the Coastal Commission, Heal the Bay, the California League of Conservation Voters, the Sierra Club, the Natural Resources Defense Council and others. The League of California Cities would support the bill if it is amended, as RPD has suggested. Opposition to the bill includes the California Chamber of Commerce, the California Association of Port Authorities, the Alliance for Habitat Conservation, the California Association of Realtors, the Agricultural Council of California, the California Building Industry Association, and other trade associations. SB 1916 is currently awaiting a hearing before the Assembly Appropriations Committee.

We will continue to keep you advised of any new developments.

DEJ:GK
JR:DRS:md

c: Executive Officer, Board of Supervisors
 County Counsel
 All Department Heads
 Legislative Strategist
 Local 660
 Coalition of County Unions
 California Contract Cities Association
 Independent Cities Association
 League of California Cities
 City Managers Associations
 Buddy Program Participants